

December 7, 2010

To: Voluntary Plan Self-Insurers and Interested Parties

Subject: GENERAL RELEASE LETTER FOR 2011

The attached General Release (GR) letter provides information on recent legislation, regulation, and procedural changes that affect your voluntary plan (VP) for the 2011 Calendar Year, and outlines actions needed to ensure continued approval of your plan.

For additional information on VP procedures, see the *Employer's Guide to VP Procedures*, DE 2040 at http://www.edd.ca.gov/pdf_pub_ctr/de2040.pdf.

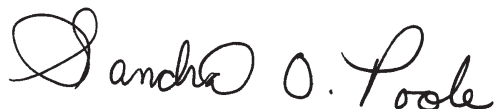
For information about State Disability Insurance (SDI), see the Employment Development Department (EDD), Disability Insurance (DI) Branch Web site at http://www.edd.ca.gov/Disability/Disability_Insurance.htm.

For information about the Paid Family Leave (PFL) program, see the EDD, DI Branch Web site at http://www.edd.ca.gov/Disability/Paid_Family_Leave.htm.

The Voluntary Plan Group (VPG) Web page is at http://www.edd.ca.gov/Disability/Employer_Voluntary_Plans.htm.

VPG staff can assist you with your VP questions. Feel free to contact us at (916) 653-6839, or see "Voluntary Plan Group Contacts," page 9, for the names, phone numbers, e-mail addresses, and responsibilities of each individual VP staff member.

Sincerely,



SANDRA O. POOLE
Deputy Director
Disability Insurance Branch

Attachments

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1. Legislation/Regulations

- a. **Assembly Bill (AB) X3 29 Unemployment Insurance:** Adds the Total Unemployment rate as another "trigger" mechanism for determining the availability of Federal State Extended Benefits. These benefits are federally funded.

Reference: An act to amend Sections 1032.5, 1275, 1277.5, 1329, and 1951 of, and to add Sections 1277.1 and 1329.5 to, California Unemployment Insurance Code (CUIC)

- b. **AB 381 State Disability Benefits, Academic Employees:** Authorizes community colleges to elect to provide State Disability Insurance benefit coverage to permanent, part time, or temporary employees that are not contingent upon coverage of all other academic employees.

Reference: An act to add Section 710.9 to the CUIC

- c. **AB 2188 Electronic Benefit Payments:** Authorizes the EDD to make State Disability Insurance (SDI) benefit payments electronically. This bill also makes conforming amendments to the CUIC allowing an expanded role of nurse practitioners to certify disability, after performing a physical examination and collaborating with a physician and surgeon, for SDI purposes.

Reference: An act to amend Sections 2708 and 3075 of the CUIC

- d. **AB 2364 Unemployment Insurance (UI) Good Cause, Domestic Violence:** Broadens the UI good cause provision related to domestic violence to include individuals and their families (rather than individuals and their children).

Reference: An act to amend Sections 1030, 1032, 1256, 1329, 1329.1, 1537, and 3011 of, and to repeal Division 5 (commencing with Section 12100) of, the CUIC

- e. **AB 2433 Use of Information for Tax Purposes:** Allows EDD to share certain employment tax information with the Board of Equalization (BOE) that will assist in the administration of BOE tax programs.

Reference: An act to amend Section 1095 of the CUIC

- f. **AB 2538 UI Notices of Levy and Prosecution of Criminal Violations:** Allows EDD to serve Notices of Levy by either electronic means and/or first class mail; provides EDD authority to prosecute criminal violations in the county where the offenses occurred; and deletes obsolete references to the Labor Code.

Reference: An act to amend Sections 1755, 1757, 2124, 2626, and 2629 of, and to add Section 1755.1 to, the CUIC

- g. AB 2778 Disability Insurance Voluntary Plan:** Allows a small business third party administrator (SBTPA) to establish and administer a DI voluntary plan on behalf of its clients, the majority of which must be small employers.

Reference: An act to add and repeal Section 3254.1 of the CUIC

- h. SB 1244 Limited Liability Companies (LLC):** Includes in the definition of "employee" any member of a LLC that is treated as a corporation for federal income tax purposes and excludes any member of a LLC that is treated as a partnership for federal income tax purposes. This bill aligns State law with federal tax laws.

Reference: An act to amend Sections 621 and 13009 of, and to add Sections 623 and 928.7 to, the CUIC

2. Contribution Rate and Wage Ceiling

Effective January 1, 2011, the SDI worker contribution rate is **1.2 percent** of an employee's gross taxable wages up to \$93,316.

Reference: CUIC Section 984

The 2011 SDI taxable wage ceiling (the maximum amount of wages per employee that are subject to SDI contributions) will be \$93,316. The maximum annual contribution per employee for 2011 will be \$1,119.79 (\$93,316 x 1.2 percent). Employers report these contributions to the EDD Tax Branch on the *Quarterly Contribution Return*, DE 3D, line D, box D1 Voluntary Plan.

The SDI contributions for 2009 were \$5.2 billion and are projected to remain at \$5.2 billion for 2010, increase to \$5.9 billion in 2011, and decrease to \$5.7 billion in 2012. The SDI program taxes covered employees up to a ceiling set by Section 985 of the CUIC. The taxable wage ceiling increased from \$90,669 in 2009 to \$93,316 in 2010 and will remain at \$93,316 in 2011. The taxable wage ceiling is projected to increase to \$94,735 in 2012.

Reference: CUIC Section 985

3. VP Assessment Rate

Effective January 1, 2011, the VP assessment rate (on line K of the *Quarterly Contribution Return Form*, DE 3D) will increase from 0.154 to **0.168 percent** (0.00168). This figure is the product obtained by multiplying the worker contribution rate by 14 percent, or $1.2 \times 0.14 = 0.168$ percent.

Reference: CUIC Section 3252[b]

VP employers must remit this payment to the EDD Tax Branch with their other tax payments. The employer may pay the assessment out of their corporate funds, or charge it to the VP trust fund. If charged to the VP trust fund, show the expenditure on the *Annual Report of Self-Insured Voluntary Plan Transactions*, DE 2568V, which is submitted to the VPG.

4. Calendar of Required Actions for the Year 2011

❖ Effective Immediately:

Plan Text Amendments Require Immediate Notification of Employees

The law requires that immediate notification is given to covered employees of any VP amendments no later than the effective date of the amendment. The notice of the amendment should include notification of the right to withdraw from the VP as of the effective date of the amendment. The VP is also required to immediately notify the EDD of any plan text changes as well.

Reference: CUIC Section 3271[a]

The amendment process is outlined in Section 800 of the *Employer's Guide to Voluntary Plan Procedures*, DE 2040.

Please submit to EDD all plan text amendments for approval by February 15, 2011.

By January 1, 2011:

- Provide written notice to your VP employees of the maximum weekly benefit amount (WBA) of \$987 and maximum benefit amount (MBA) of \$51,324 and any other plan changes. Notice of benefit changes is not necessary if your VP already provides a higher WBA and MBA.
- Notify VP and SDI covered employees that the contribution rate last year of 1.1 percent will increase to **1.2** percent of taxable wages, but the taxable wage ceiling remains at \$93,316 in 2011. VP employers may decrease their VP contribution rate and VP taxable wage ceiling to levels lower than the SDI contribution rate and SDI tax ceiling. Please note, however, that the \$93,316 taxable wage ceiling applies to both SDI and VP wages reported on line D1 Voluntary Plan and D2 State Plan, *Quarterly Contribution Return Form*, DE 3D. (See "Contribution Rate and Wage Ceiling", page 2)

By February 15, 2011:

- For all changes to your VP, please provide the VPG at the address indicated below, written documentation describing all amendments made to your 2011 plan. Include a copy of the employee notice informing employees of any rate changes and/or plan amendments.
- Complete and return to the VPG the attached "Voluntary Plan 2011 Security Review" worksheet, Attachment 1, outlining proposed changes to your security deposit, along with required documents.

- Complete and return to the VPG the “Voluntary Plan Administrative Changes” information sheet, Attachment 2, only if you have changes to report.
- Complete and return to the VPG the *Annual Report of Self-Insured VP Transactions*, DE 2568V.

The DE 2568V Rev. 21 (11-08) for calendar year 2010 is due to the VPG by February 15, 2011. Employers can obtain the DE 2568V on the Internet at: http://www.edd.ca.gov/pdf_pub_ctr/de2568v.pdf.

The Internet version of the DE 2568V Rev. 21 (11-08) cannot be automatically submitted to EDD via e-mail because it is a fill-in form only. However, employers can view the form on-line, fill in the blanks, print, and submit it via fax or mail to the VPG (see address below).

Reference: CCR Title 22 Section 3267-2

VP employers may request an electronic version of the current form from the VPG by calling (916) 653-6839.

Mail or fax hardcopies of the DE 2568V to the VPG at the following address:

EDD, Disability Insurance
Voluntary Plan Group
P.O. Box 826880, MIC 29VP
Sacramento, CA 94280-0001
Fax: (916) 653-6209

Alternatively, employers using the Internet version may electronically scan and e-mail the completed DE 2568V to the VPG at vp68v@edd.ca.gov
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NOTE: Do not use an outdated version of form DE 2568V. Using an old version may require the VPG to return the form to you as incomplete. The new form has additional data fields that must be completed.

For more information on the DE 2568V, see the Employer’s Guide to Voluntary Plan Procedures, Sections 740-755, on the Internet at http://www.edd.ca.gov/pdf_pub_ctr/de2040.pdf

Reference: CUI Section 3271[a]

5. How to Determine When to Increase/Decrease a Security Deposit

• Making Adjustments to Existing Security Deposits

The 2011 contribution rate is 1.2 percent of an employee's taxable wages, and the taxable wage ceiling is \$93,316. The amount of your existing security deposit may need to be adjusted due to the new contribution rate used in the calculation. We have included a Voluntary Plan 2011 Security Review worksheet, Attachment 1, to assist you with this calculation. Please complete and return the worksheet to the VPG by February 15, 2011, regardless of whether a change was made to your VP security amount.

Reference: CUIC Section 3258

If the difference between your existing security and the required amount is more than 5 percent, you must increase your security amount.

EXAMPLE #1:	Required Security Amount:	\$205,000
	Existing Security Amount:	\$200,000

Example #1 indicates that the security amount need not be increased, since the difference between the two amounts is only 2.5 percent.

EXAMPLE #2:	Required Security Amount:	\$219,350
	Existing Security Amount:	\$205,000

Example #2 indicates that the difference between the two amounts exceeds 5 percent, thus requiring you to increase the security amount.

If a security increase is required, when instructed to do so, please return the Voluntary Plan 2011 Security Review worksheet with one of the following items to the VPG by February 15, 2011:

- Guarantee bond rider to amend your guarantee bond
- Letter of credit amendment
- Cash or Bearer bond

Before submitting any change in security, please review Section 780 of the Employer's Guide to Voluntary Plan Procedures.

Reference: CCR, Title 22, Section 3258-1; CUIC Section 3258

6. How to Complete the VP 2011 Security Review Worksheet

To complete the worksheet, first obtain a reasonable estimate of your 2011 taxable wages up to the ceiling amount of \$93,316 per employee, and then calculate the required security amount by applying the following formula:

- 2011 Estimated VP Total Taxable Wages x 0.5 (per CUIC Section 3258) x 1.2 percent (worker contribution rate beginning January 1, 2011) = estimated 2011 security amount.
- Round up to the next even \$100.00
- Minimum required deposit is \$1,000.00

EXAMPLE #1: Year 2011 taxable wages = \$1,455,000
 $(\$1,455,000) \times .5 \times .012 = \$8,730$
Security deposit should be \$8,800 because you are asked to round up to the next even \$100.

EXAMPLE #2: Year 2011 taxable wages = \$155,000
 $(\$155,000 \times .5) \times .012 = \930
Security deposit should be rounded up to \$1,000 because the minimum required security deposit is \$1,000.

*****See Attachment 1 for the 2011 Security Review Worksheet*****

7. Where to Send Your Security Deposit

Guarantee Bond or Letter of Credit Deposits

Send an original and one copy of your guarantee bond or letter of credit to one of the following addresses, depending on mail or in-person delivery:

Mailing Address

EDD, Disability Insurance Branch
Voluntary Plan Group
Attention: Security Analyst
P.O. Box 826880, MIC 29VP
Sacramento, CA 94280-0001

In-Person Delivery Address

EDD, Disability Insurance Branch
Voluntary Plan Group
Attention: Security Analyst
800 Capitol Mall, Room 3137, MIC 29VP
Sacramento, CA 95814

8. Voluntary Plan Advisory Group

The EDD actively participates in the Voluntary Plan Advisory Group (VPAG). The VPAG consists of VP employers, third-party administrators (TPA) and EDD representatives, who meet twice yearly to discuss VP issues and pending legislation, share common concerns, clarify VP claim procedures, and exchange ideas to improve the VP program.

This year the Spring meeting was held in Northern California on May 11, 2010, at the Biltmore Hotel in Santa Clara, and the fall meeting was held on October 7, 2010, at the General Offices of Southern California Edison in Rosemead, California. The next meeting is in April 2011, location to be determined. You will be notified of the exact date of the next meeting when scheduled.

To join the VPAG, contact Chris Okugo, Manager of the Voluntary Plan Group at (916) 654-8250 or e-mail: cokugo@edd.ca.gov

9. General Information

a. Voluntary Plan Administrative Changes

Complete the "Voluntary Plan Administrative Changes" form, see Attachment 2, to report changes to your contact person(s) name, phone and/or fax numbers, email, and street addresses associated with your plan. Please return this form to the VPG by February 15, 2011, only if you have changes to report. However, during the course of the year at anytime, you have administrative or other plan changes please notify us immediately, so we may update your VP information.

b. EDD SDI Questions

To submit questions and receive a timely response regarding SDI benefits or other program related issues you may access the following link:
<https://askedd.edd.ca.gov/asp/frmEDDCOMM.aspx>.

c. EDD Tax Questions

The VPG receives inquiries regarding employer tax issues, which should be directed to the EDD Tax Branch. The forms that generate most of these questions are the DE 3D, DE-6, DE 1176, and DE 16.

To get answers to your tax questions, contact the EDD Tax Branch at the toll-free number, 1-888-745-3886 or at 916-464-2500, and be sure to ask to speak with the "Auditor of the Day."

d. EDD Medical Director Contact Information

- For medical questions contact:
Robert M. Heiligman, MD, MPH
800 Capitol Mall, MIC 29 B
P.O. Box 826880
Sacramento, CA 94280 -0001
(916) 654-8621

e. VP Forms and Publications

To obtain VP forms and publications, contact the VPG at (916) 653-6839 or access our Web site at:

- http://www.edd.ca.gov/Disability/VP_Forms_and_Publications.htm

Forms needed but not found on the VPG Web site must be ordered directly from the VPG.

10. VP Withdrawal Process, Procedures, and Regulations.

If an employer is considering withdrawing their voluntary plan, the EDD must receive written notice no less than 30 days prior to the requested withdrawal date. The VP remains responsible for payment of all claims filed prior to the date of withdrawal. The VP is also responsible for claims that were submitted after the VP withdrawal where the disability began prior to the effective date of the withdrawal. Unpaid liabilities of the VP will be recovered from the VP employer through Department levied assessments and the call-in of security deposits, if necessary.

The EDD may not approve a request to withdraw a plan unless the plan has been in effect for at least one year, including other requirements.

CUIC 3254 (g) - The plan will be in effect for a period of not less than one year and, thereafter, continuously unless the Director of Employment Development finds that the employer or a majority of its employees employed in this state covered by the plan have given notice of withdrawal from the plan. The notice shall be filed in writing with the Director of Employment Development and shall be effective only on the anniversary of the effective date of the plan next following the filing of the notice, but in any event not less than 30 days from the time of the filing of the notice; except that the plan may be withdrawn on the operative date of any law increasing the benefit amounts provided by Sections 2653 and 2655 or the operative date of any change in the rate of worker contributions as determined by Section 984, if notice of the withdrawal from the plan is transmitted to the Director of Employment Development not less than 30 days prior to the operative date of that law or change.

For additional details, please see the CUIC and/or the *Employer's Guide to VP Procedures*, DE 2040.

11. VPG Contacts

The following is a list of VPG staff names, telephone numbers, e-mail addresses, and primary functions. VPG staff are always ready to provide you with assistance.

Name	E-mail Address & Phone Number	Duties
Chris Okugo	Chris.Okugo@EDD.ca.gov (916) 654-8250	Manager, Voluntary Plan Group
Victor Young	Victor.Young@EDD.ca.gov (916) 654-9248	Manager, VP Administration Unit
Katy Cavender	Katy.Cavender@EDD.ca.gov (916) 654-9172	Manager, VP Audit and Compliance Unit
Jim Iwamiya	Jim.Iwamiya@EDD.ca.gov (916) 654-9279	New Plan Approvals and Amendments
Emmanuel Okoronkwo	Emmanuel.Okoronkwo@EDD.ca.gov (916) 654-8789	New Plan Approvals and Amendments
Myisha Robertson	Myisha.Robertson@EDD.ca.gov (916) 653-7417	VP Plan Withdrawals and Terminations
Jaime Briseño	Jaime.Briseno@EDD.ca.gov (916) 654-7811	Security Deposits and DE 2568V Reports
Caroline Owoyele	Caroline.Owoyele@EDD.ca.gov (916) 657-5081	New Plans and Security Deposits
Glenn Lomax	Glenn.Lomax@EDD.ca.gov (916) 653-2883	General Release Letters and Special Projects
Phillina Lyles	Phillina.Lyles@EDD.ca.gov (916) 654-8393	VP Auditor

- **Written inquiries regarding voluntary plans may be addressed to:**

Employment Development Department
Disability Insurance Branch
Voluntary Plan Group, MIC 29-VP
PO Box 826880
Sacramento, CA 94280-0001

12. The Extra Nurse Practitioner (NP) Certification (AB 2188)

The extra NP certification is intended to comply with new statutes that allow a NP to certify to any type of disability, within the scope of his or her license, provided that the NP has examined the claimant and has collaborated with a physician and surgeon. The extra NP certification does not apply to certifications a NP makes related to normal pregnancy or childbirth. It also does not apply to certifications made by Midwives or Certified Nurse Midwives, two groups who are allowed to certify claims only for normal pregnancy or childbirth.

We have provided examples below of the language, which, may be used as part of a certification.

Suggested Extra Language for Nurse Practitioner Certification for DI Benefits

Nurse Practitioners certifying State Disability Insurance (SDI) claims for a disability other than normal pregnancy or childbirth must comply with Section 2835.7 of the Business and Professions Code (BPC) and with Section 2708 of the California Unemployment Insurance Code (CUIC). In order to determine the above named claimant's eligibility for benefits, the certifying Nurse Practitioner must complete and sign the following statement.

I _____ (Nurse Practitioner's Full Name), certify that I performed a physical examination of the above named claimant and that I collaborated with a physician and surgeon pursuant to the requirements of Section 2835.7(a)(2) of the BPC, prior to certifying the disability of the above named claimant.

I understand that I am signing this certification voluntarily and that the claimant's payment or eligibility for disability benefits will be affected if I do not sign this certification.

Suggested Extra Language for Nurse Practitioner Certification for PFL Benefits

Nurse Practitioners certifying Paid Family Leave (PFL) claims for the serious health condition of the care provider's family member must comply with Section 2835.7 of the Business and Professions Code (BPC) and Section 2708 of the California Unemployment Insurance Code (CUIC). In order to determine the above named care provider's eligibility for benefits, the certifying Nurse Practitioner must complete and sign the following statement.

I _____ (Nurse Practitioner's Full Name), certify that I performed a physical examination of the care recipient and that I collaborated with a physician and surgeon pursuant to the requirements of Section 2835.7(a)(2) of the BPC, prior to certifying the serious health condition of the above named care recipient.

I understand that I am signing this certification voluntarily and that the care provider's payment or eligibility for Paid Family Leave benefits will be affected if I do not sign this certification.

13. Internet Resources for EDD and California Legislation

To access information on the Internet relating to the EDD and California legislation, use the following addresses:

- | | |
|---|--|
| ○ EDD | www.edd.ca.gov/ |
| ○ Official California Legislative Information | www.leginfo.ca.gov |
| ○ California Codes (including CUIIC) | www.leginfo.ca.gov/calaw.html |
| ○ California Code of Regulations | www.oal.ca.gov/ |
| ○ California State Senate | www.senate.ca.gov/ |
| ○ California State Assembly | www.assembly.ca.gov/defaulttext.asp |

14. Acronyms

- AB Assembly Bill
- BPC Business and Professions Code
- CCR California Code of Regulations, Title 22
- CUIIC California Unemployment Insurance Code
- DI Disability Insurance
- EDD Employment Development Department
- ER Employer
- FMLA Family and Medical Leave Act
- FTDI Family Temporary Disability Insurance
- GR General Release
- MBA Maximum Benefit Amount
- PFL Paid Family Leave
- SB Senate Bill
- SDI State Disability Insurance
- UI Unemployment Insurance
- UCD Unemployment Compensation Disability
- VP Voluntary Plan
- VPAG Voluntary Plan Advisory Group
- VPDI Voluntary Plan Disability Insurance (Claim)
- VPFL Voluntary Plan Paid Family Leave (Claim)
- VPG Voluntary Plan Group
- WBA Weekly Benefit Amount

Voluntary Plan 2011 Security Review*(Please do not alter or reformat this worksheet!)*

Employer Name _____ VP #99- _____

California Employer Account Number _____

Name of Third-Party Administrator, if any _____

2010 Quarterly Taxable Wages(from Line D1 on your *Quarterly Contribution Return Form, DE 3D*)1st Quarter \$ _____2nd Quarter \$ _____3rd Quarter \$ _____4th Quarter \$ _____**2010 Total** \$ _____**Total Estimated 2011 Taxable Wages*****2011 Total** \$ _____* Reminder: The maximum taxable wage ceiling will be \$93,316 for 2011**Security Required to Continue VP**Total Estimated 2011 Taxable Wages \$ _____ x .5 x .012 = \$ _____
(From line above) (Rounded up to next even \$100)

Current Security Deposit \$ _____

Adjustment (Increase/Decrease) +/- \$ _____

Return this form whether or not you need to increase your security deposit. Submit this worksheet and your security increase documents by February 15, 2011, to one of the following addresses, depending on mail or in-person delivery:**Mailing Address:**EDD, Disability Insurance Branch
Voluntary Plan Group
Attention: Security Analyst
P.O. Box 826880, MIC 29VP
Sacramento, CA 94280-0001**In-Person Delivery Address:**EDD, Disability Insurance Branch
Voluntary Plan Group
Attention: Security Analyst
800 Capitol Mall, Room 3137, MIC 29VP
Sacramento, CA 95814

Check the box below that applies:

- ☐ Security adjustment is attached.
- ☐ Security adjustment will be forwarded to the EDD under separate cover.
- ☐ Request to submit cash.
- ☐ Request to submit bearer bond.
- ☐ No adjustment to the current security amount is needed.

Name _____ Date _____
(Print or type your name)

Phone Number _____ E-mail Address _____

Please direct questions about this form to VPG at (916) 653-6839.

Voluntary Plan Administrative Changes

➤ Please complete and return by February 15, 2011, to:

EDD, Disability Insurance Branch
Voluntary Plan Group, MIC 29 VP
PO Box 826880
Sacramento, CA 94280-0001

Related companies may report identical information on one form. Please list each plan number and name.
--

Employer Name _____ VP # 99-_____

Employer doing business as (dba) or Alias Name _____

California Employer Account Number _____

Main Contact Person, (usually the benefits manager, human resources manager, or personnel manager) regarding VP issues (VP administration, securities, claims, etc.):

Name _____ Title _____

Address _____

Phone _____ Fax _____

E-mail Address _____

Second Contact Person, regarding VP issues (VP administration, securities, etc.):

Name _____ Title _____

Address _____

Phone _____ Fax _____

E-mail Address _____

Contact Person for questions on the *Report of Self-Insured Voluntary Plan Transactions*, DE 2568V:

Name _____ Title _____

Address _____

Phone _____ Fax _____

E-mail Address _____

Disputed Coverage Referrals Contact Person (claims received by EDD that may be VP liability) should be addressed as follows:

Name _____ Title _____

Address _____

Phone _____ Fax _____

E-mail Address _____

Form Completed by: Name _____ Date _____

E-mail Address _____ Phone _____

If you would like to receive your General Release letter only via E-mail, please fill out the information below:

Check box: Yes ☐ No ☐

Your Full Name _____

Your Email Address _____

Additional Email Addresses _____